

### **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

Claims 20, 22, 27, 28, 33-36, and 38 are amended presently. Claims 1-19, 21, 29, and 37 are cancelled. New Claims 39-43 are added.

Applicant requests that the examiner enter these amendments and new claims because no new matter has been added. Support for the amendments to the claims can be found in the specification, in, e.g., Figs. 1-3; and 13A-13D. Additionally, the newly added description of Figs. 1-14 is the same as that found in the parent 371 application (i.e., PCT/US2003/022528). Finally, the paragraph added on Page 21 finds support in the drawings and/or written description of the locking tab feature.

With the foregoing amendments claims 20, 22-28, 30-36, and 38-42 are pending in this application.

#### **Rejection under 35 USC § 112, second paragraph**

Claims 20-38 are rejected under 35 USC § 112, second paragraph, as being indefinite. Claim 20, in its current form, no longer recites “a base portion” or “a peripheral wall”, which the Examiner considered to be inaccurate and indefinite. Applicant submits that claim 20 is consistent with the specification and the drawings and, thus, is clear and definite. Claims 29 and 37 have been cancelled, rendering the rejection thereof moot. Applicants submit that claims 20, 22-28, 30-36, and 38, in their current form, are definite and in allowable form.

#### **Objection to the drawings**

The drawings are objected to under 37 CFR §1.83(a). Applicants submit that the subject matter in question (i.e., “a base portion” and “a peripheral wall”) are no longer claimed, rendering the objection moot. Further, Applicants submit that the claimed subject matter can be found, e.g., in Figs. 1-3; and 13A-13D. Thus, Applicants submit that the drawings are now in allowable form.

#### **Information Disclosure Statement**

Applicants acknowledge the Examiner's statement that the IDS filed on 2/4/2008 fails to comply with 37 CFR §1.98(a)(2), which requires a legible copy of each cited foreign patent document, and that the IDS has been placed in the file without Examiner consideration as to those particular references.

### **Specification**

The disclosure is objected to, based on the lack of a brief description of Figs. 1-14. The required description of such drawings has now been provided. As such, Applicants submit that the specification is now in allowable form.

The Examiner has noted that a specific reference to an earlier filed application must appear in the specification, if applicant desires priority under 35 USC §119(c). Accordingly, Applicants have amended the specification to provide such information, along with its status under 35 USC §371(c).

### **Rejection under 35 USC § 102(b)**

Claims 20-26 are rejected under 35 USC §102(b) as being anticipated by photographs of a Lindt & Springli chocolate package (hereinafter referred to as the "Lindt" reference).

Claims 20-22 and 27-30 are rejected under 35 USC §102(b) as being anticipated by GB 2,349,143 to Brain.

Claims 20-29 and 31-37 are rejected under 35 USC §102(b) as being anticipated by US 3,941,300 to Troth.

Applicants submit that claims 21, 29, and 37 are cancelled and that pending claims 20, 22-28, and 30-36 are in condition for allowance over Lindt, Brain, or Troth, taken alone or in combination with any other cited reference.

Claim 20 shows that each locking tab has a width that greatly exceeds a height thereof and has at least one pair of parallel edges. Applicant submits that Lindt, Brain, and Troth fail disclose such subject matter.

The Lindt chocolate package provides a package sleeve with a plurality of locking tabs. However, the width and height of such locking tabs do not differ significantly. As

such, Applicants submit that claim 20 defines over the Lindt chocolate package.

Brain provides a package sleeve with a plurality of locking tabs. However, the width and height of such locking tabs do not differ significantly. As such, Applicants submit that claim 20 defines over Brain.

Troth discloses a package sleeve with four sides, with at least one end thereof having four corresponding locking tabs. Troth, though, discloses each locking tab to have one straight edge and an opposed arcuate edge. Therefore, Troth fails to disclose the subject matter of claim 20.

As such, Applicants submit that claim 20, as well as those claims depending therefrom, are now in condition for allowance over Lindt, Brain, Troth, or any of the other cited references, taken alone or in combination.

#### **Rejection under 35 USC § 103(a)**

Claims 30 and 38 are rejected under 35 USC §103(a) as being obvious over Troth (US '300) in view of Brain (GB '143). However, claims 30 and 38 depend from claim 20, which is in condition for allowance for the reasons set forth above. As such, Applicants submit that claims 30 and 38, by way of their dependence on allowable claim 20, are also in condition for allowance.

#### **Obvious-type double patenting**

Claims 20-38 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-6 of US 7,700,775.

Claim 20 shows that each locking tab has a width that greatly exceeds a height thereof. Applicant submits none of claims 1-6 of US '775 discloses or suggests such a feature. As such, Applicants submit that claim 20, as well as those claims depending therefrom, are now in condition for allowance over claims 1-6 of US '775.

#### **New claims**

Claims 39-43 are added hereby. Support for such changes may be found, for example, in Figs. 1-3; and 13A-13D. Additionally, claims 39-42 depend from claim 20, which is in condition for allowance. Applicants further submit that claims 39, 40, and 42

set forth separately allowable subject matter. Finally, Applicants submit that the tab curvature of claim 43 is not taught or suggested by any of the cited references, taken alone or in combination. As such, Applicants submit that claim 43 is also in condition for allowance.

### **Conclusion**

Applicants believe that the present application is in condition for allowance. Favorable consideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If any fees are due in connection with the filing of this Amendment, please charge the fees to 132512. As a fee is required for an extension of time under CFR § 1.136, as noted above, such an extension is requested and the fee should also be charged to our Deposit Account. It is also noted that a fee for one excess dependent claim should be charged to such account as well.

Respectfully submitted,

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